UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,912	08/22/2003	Kenneth Shanton	80006-00076	1605

38077 7590 11/28/2008

PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

EXAMINER	
CHAMPAGNE, LUNA	
ART UNIT	PAPER NUMBER
3627	

NOTIFICATION DATE	DELIVERY MODE
11/28/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USpatents@armstrongteasdale.com

Office Action Summary	Application No.	Applicant(s)	
	10/646,912	SHANTON, KENNETH	
	Examiner	Art Unit	
	LUNA CHAMPAGNE	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 September 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-10,13-17 and 19-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-10,13-17 and 19-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Applicant's submission filed on 9/24/08 has been entered. Claims 1, 3-10, 13-17, 19-28 are presented for examination. Claims 2, 11, 12 and 18 are cancelled. Claims 27 and 28 are new.

The rejection under 35 U.S.C. 112, first paragraph has been withdrawn.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 3-10, 13-17, 19-22 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Garber et al. (US 7,044,373 B1), in view of Walsh et al. (6,394,290 B1).

3. As per claims 1, 9, 10, 20, Garber et al. teach a system for monitoring inventory in a point of purchase display comprising: the display stand further having at least one of a bottom wall, a side wall, a back wall, a top wall, a front wall (*See e.g. figure 16*); at least one article, operably configured to be positioned on the at least one shelf (*See e.g. figure 17*); the at least one article containing a radio frequency identification tag (*See e.g. col. 13, lines 28-30*); a single radio frequency antenna, affixed to at least one of the bottom wall, the side wall, the back wall, the top wall, the front wall (*See col. 16, lines 19-21*); a radio frequency identification tag reader, operably connected to the radio

frequency antenna, for transmitting to and receiving radio frequency signals from the radio frequency identification tag, the radio frequency identification tag reader being operably configured to interrogate any radio frequency identification tags located within the display area (*See col.11, lines 36-40; col. 12 lines 45-53*), the radio frequency identification tag reader being operably connectable to a remotely situated monitoring apparatus, for providing a remote indication of the presence and absence of the at least one package containing the radio frequency identification tag, within the display area (s*ee e.g. col. 12, lines 52-57*); receive RF energy from an RFID reader (*see e.g. col. 6, lines 1-2);* transmit RF energy to interrogate the RFID tag attached to the at least one article positioned on any of the at least one shelf; and receive an RF signal from the interrogated RFID tag, the received RF signal indicating a presence of the at least one article within the portable display stand (*see e.g. col. 20 lines 19-28)*

Garber et al. do not explicitly teach the portable display stand having a display area including at least one shelf, operably configured to support an article being displayed for sale thereon, the portable display stand configured to be collapsible; wherein the portable display stand is shipped to a destination in a folded flat configuration and erected at the destination.

However, Walsh et al. teach the portable display stand having at least one shelf, operably configured to support an article being displayed for sale thereon, the portable display stand configured to be collapsible and transportable *(a foldable, point-of purchase display stand is disclosed /such display stands are also portable - see e.g. abstract and col. 1, line 16);* wherein the portable display stand is shipped to a

destination in a folded flat configuration and erected at the destination (see e.g. col. 3, lines 56-58)

Therefore it would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify Garber et al. by using a portable display stand having at least one shelf, operably configured to support an article being displayed for sale thereon, the portable display stand configured to be collapsible and transportable, as taught in Walsh et al., in order to expand the system and include sales.

As per claim 3, Garber et al. do not specifically teach a system, wherein the portable display stand is fabricated substantially completely from one of: paper, paperboard, corrugated paperboard, bristol board, foam cored board, and plastic.

However, Walsh et al. teach a system wherein the portable display stand is fabricated substantially completely from one of: paper, paperboard, corrugated paperboard, bristol board, foam cored board, and plastic (s*ee col. 1, lines 6-9*).

Therefore it would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify Garber et al. by using a portable display stand fabricated substantially completely from corrugated paperboard, as taught by Walsh et al., in order to prevent interference with the RFID system from other materials.

As per claim 4, Garber et al. teach a system, wherein the portable display stand is at least partially covered with emf absorbing/shielding material (*See col. 8, lines 60-64*).

As per claim 5, Garber et al. teach a system, wherein the at least one radio frequency antenna is affixed to the portable display stand by printing the at least one radio frequency antenna on a surface of the portable display stand with metallic ink (*See col. 16, lines 7-10*).

As per claim 6, Garber et al. teach a system, wherein the at least one radio frequency antenna is embedded within the material from which the portable display stand is fabricated (*See col. 22, lines 9-10*).

As per claim 7, Garber et al. teach a system, wherein the portable display stand is provided with wheels to facilitate movement of the portable display stand (*See col. 15, lines 41-42; col. 16, lines 56-58*).

As per claim 8, Garber et al. teach a system, wherein the portable display stand comprising a bulk bin on a pallet structure, the bulk bin comprising at least a bottom wall, a back wall, a front wall, and a pair of side walls, at least one of the walls in removable for accessing the at least one article therein (*See fig. 16; col. 15, lines 57-59)*.

As per claims 13-17, 19, Garber et al., in view of Walsh et al., lack the specific details/configurations described in Applicant's dependent claims.

However, it would have been obvious to one of ordinary skill in the art to modify Garber et al., in view of Walsh et al., to incorporate the specific details/configurations described in Applicant's dependent claims as a design choice, in order to hide the antenna/wire from public reach for safety and/or aesthetic reasons.

As per claims 21 and 22, Garber et al. teach a system wherein said monitoring apparatus is configured to maintain a running inventory of a plurality of articles positioned on the at least one shelf (see e.g. col. 9, lines 25-28); wherein said monitoring apparatus is configured to communicate the running inventory to an inventory computer (*see e.g. col. 11, lines 47-50; col. 13, lines 59-61 – the handheld device can communicate with a separate database).*

4. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garber et al. (US 7,044,373 B1), in view of Walsh et al. (6,394,290 B1), in further view of Weaver (6813771 B2)

As per claim 23, Garber et al., in view of Walsh et al. , do not explicitly teach a system wherein the display stand is configured as a shipping container for carrying a plurality of articles to the point of purchase, said front wall being at least one of integrally formed with at least one of the bottom wall, the side wall, and the top wall, and detachably coupled to at least one of the bottom wall, the side wall, and the top wall

wherein the front wall is configured to be at least partially moved to display the at least one article for sale.

However, Weaver teaches a system wherein the display stand is configured as a shipping container for carrying a plurality of articles to the point of purchase, said front wall being at least one of integrally formed with at least one of the bottom wall, the side wall, and the top wall, and detachably coupled to at least one of the bottom walt, the side wall, and the top wall wherein the front wall is configured to be at least partially moved to display the at least one article for sale (see e.g. col. 3, lines 15-18).

Therefore it would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify Garber et al., in view of Walsh et al., and a display stand is configured as a shipping container for carrying a plurality of articles to the point of purchase, said front wall being at least one of integrally formed with at least one of the bottom wall, the side wall, and the top wall, and detachably coupled to at least one of the bottom walt, the side wall, and the top wall wherein the front wall is configured to be at least partially moved to display the at least one article for sale, as taught by Weaver., in order to create a multipurpose, more marketable stand.

5. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garber et al. (US 7,044,373 B1), in view of Walsh et al. (6,394,290 B1), in further view of Palmer et al. (5530702)

As per claim 24, Garber et al., in view of Walsh et al. do not teach an inventory computer communicatively coupled to said radio frequency identification tag reader, said radio frequency identification tag reader configured to continuously interrogate said RFID tags, said inventory computer configured to decrement a running inventory of articles when one of the at least one "articles is removed from the at least one shelf and to increment the running inventory of articles when an articles is positioned on the at least one shelf.

However, Palmer et al. teach an inventory computer communicatively coupled to said radio frequency identification tag reader, said radio frequency identification tag reader configured to continuously interrogate said RFID tags, said inventory computer configured to decrement a running inventory of articles when one of the at least one "articles is removed from the at least one shelf and to increment the running inventory of articles when an articles is positioned on the at least one shelf (*see e.g. col. 7, lines 1-14).*

Therefore it would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify Garber et al., in view of Walsh et al., by including an inventory computer communicatively coupled to said radio frequency identification tag reader, said radio frequency identification tag reader configured to continuously interrogate said RFID tags, said inventory computer configured to decrement a running inventory of articles when one of the at least one "articles is removed from the at least one shelf and to increment the running inventory of articles when an articles is

positioned on the at least one shelf, as taught by Palmer et al., in order to incorporate inventory tracking in the system.

6. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et al. (6,394,290 B1), in view of Garber et al. (US 7,044,373 B1), in further view of Khuns et al. (6,816,125 B2)

Re claims 25, 26, Walsh et al. teach a system for monitoring inventory in a point of purchase display, comprising: a portable display stand comprising corrugated paperboard configured to be collapsible, the display stand including a plurality of shelves configured to support an article being displayed for sale thereon (*see e.g. col. 1, lines 12-17).*

Walsh et al. do not explicitly teach a radio frequency identification tag reader, operably connected to the radio frequency antenna, for transmitting and receiving radio frequency signals between the reader and a radio frequency identification enabled article positioned on any of the plurality of shelves; and a monitoring apparatus communicatively coupled to the radio frequency identification tag reader, the monitoring apparatus positioned remotely from the tag reader and configured to maintain a running inventory of the radio frequency identification enabled articles positioned on any of the plurality of shelves of the portable display stand.

However, Garber et al. teach a radio frequency identification tag reader, operably connected to the radio frequency antenna, for transmitting and receiving radio frequency signals between the reader and a radio frequency identification enabled article positioned on any of the plurality of shelves (*See col.11, lines 36-40; col. 12 lines 45-53*); and a monitoring apparatus communicatively coupled to the radio frequency identification tag reader, the monitoring apparatus positioned remotely from the tag reader and configured to maintain a running inventory of the radio frequency identification enabled articles positioned on any of the plurality of shelves of the portable display stand (s*ee e.g. col. 12, lines 52-57*).

Therefore it would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify Walsh et al. by including the steps cited above, as taught by Garber et al., in order to provide faster and reliable identification/processing of the articles on display.

Walsh et al., in view of Garber et al. do not explicitly disclose the display stand further comprising a back wall opposing an open display front, said back wall comprising a single radio frequency antenna; display stand is configured to facilitate interrogation of the radio frequency identification enabled article positioned on any of the shelves by the single radio frequency antenna.

However, Kuhns et al. disclose the display stand further comprising a back wall opposing an open display front, said back wall comprising a single radio frequency antenna; a display stand is configured to facilitate interrogation of the radio frequency

identification enabled article positioned on any of the shelves by the single radio frequency antenna (see e.g. col. 11, lines 24-38 and fig. 10).

Therefore it would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify Walsh et al., in view of Garber et al., by including a step wherein a back wall opposing an open display front, said back wall comprising a single radio frequency antenna; display stand is configured to facilitate interrogation of the radio frequency identification enabled article positioned on any of the shelves by the single radio frequency antenna, as taught by Khuns et al., in order to facilitate placement and/or removal of the articles.

7. Claims 27, 28 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Garber et al. (US 7,044,373 B1), in view of Walsh et al. (6,394,290 B1), in further view Boom Coburn et al. (2003/0173247 A1).

Re claims 27, 28, Garber et al., in view of Walsh, disclose a portable display stand with a tag and tag reader. They do not explicitly disclose the position of the tag and tag reader being adjacent to the bottom wall of the stand.

However, Boom Coburn et al. disclose a system wherein the radio frequency identification tag/tag reader is positioned adjacent the bottom wall of a container (*see e.g. claim 36 and paragraph 0034 – RF tag receptacle is juxtaposed to the inside wall of bottom portion 20, positioned within read distance of the reading device).*

Therefore it would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify Walsh et al., in view of Garber et al., by positioning the tag and tag reader at the bottom of the display stand, in order to prevent obstruction and increase the efficiency of transmitting a signal and receiving tag information between the reader and the tag.

Reply to Arguments:

8. Applicant's arguments with respect to claims 1, 3-10, 13-17, and 19-26 have been considered and are not persuasive. As highlighted in the rejection, Garber et al. disclose an RFID system attached to a stand which performs Applicant's limitations. Walsh et al. disclose a foldable, point of purchase display stand as claimed by Applicant. Garber teaches, in claim 10, that the cart includes a shelf having an antenna associated therewith. Garber does anticipate having a single antenna on a cart. Furthermore, a cart with only one shelf, in Garber's invention, meets Applicant's limitation of a single RF antenna being affixed to at least, one of the bottom wall, the side wall, the back wall, the top wall, and the front wall. The rejection is still valid.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luna Champagne whose telephone number is (571) 272-7177. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Luna Champagne/
Examiner, Art Unit 3627

November 23, 2008

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627